



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC RECORDS

FROM: COMMISSION SECRETARY *MWD*

DATE: April 18, 2003

SUBJECT: COMMENT DRAFT AO 2003-04

Transmitted herewith is a timely submitted comment from Mr. R. Patrick Vance on behalf of Freeport-McMoRan Copper & Gold, Inc. ("Freeport") and the Freeport-McMoRan Copper and Gold, Inc. Citizenship Committee ("the PAC") regarding the above-captioned matter.

Proposed Advisory Opinion 2003-04 is on the agenda for Thursday, April 24, 2003.

Attachment:

2 pages

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2003 APR 18 A 8:04

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April 17, 2003

VIA TELEFAX (202-208-3333)
And U.S. MAIL
Federal Election Commission
Commission Secretary
999 E. Street, NW
Washington D.C. 20463

RE: Request for Advisory Opinion re FCX Federal Political Action Committee
Matching Charitable Contribution Plan
AOR 2003-4/Draft AO 2003-4

Ladies and Gentlemen:

We have requested an advisory opinion on behalf of Freeport-McMoRan Copper & Gold, Inc. ("Freeport") and the Freeport-McMoRan Copper and Gold, Inc. Citizenship Committee ("the PAC"), relating to a matching charitable contribution plan Freeport would like to implement. We have recently received a draft of the Commission's advisory opinion in this matter. We understand the Commission is set to consider this draft opinion at its April 24, 2003 public hearing. This letter is intended to provide written comments on this draft. I ask that these comments be circulated to the Commission in connection with this hearing.

Overall, Freeport is in agreement with the proposed language of the advisory opinion. One area of interest, however, is the following sentence that appears on page 3 of the draft opinion: "As long as Freeport's charitable matching plan is implemented so that no contributor to the PAC receives a tangible benefit or premium from Freeport, the PAC, or the charity receiving the matching donation, this requirement will be met." This appears to be a reference to Freeport's assurance (in its February 25, 2003 advisory opinion request letter) that contributors to the PAC will not receive any bonuses, expense accounts or other forms of direct or indirect compensation as a result of their participation in the plan.

As we indicated previously, Freeport will not give any direct or indirect benefit to contributors in exchange for their contribution to the PAC. That requirement is clearly set forth in 11 CFR 114.5 (b)(1). Freeport likewise expects that contributors will not receive any benefit from the entities that receive the matching charitable donations.

(B0230721.1)

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Office of General Counsel
Federal Election Commission
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That said, while Freeport does not anticipate that any benefit will be given, Freeport obviously cannot control what the charitable entity does after it receives the matching donation.

Freeport understands the Commission is concerned that contributors not receive any tangible benefit from the company, the PAC or the charitable entity in exchange for their contribution to the PAC. To address this situation, Freeport proposes an addition to its plan to help ensure no such benefits will be given or received.

Each contributor to the matching charitable contribution plan will be notified in writing that he or she cannot receive any tangible benefit from the charitable entity in exchange for a matching donation. In addition, Freeport will include in the transmittal letter to each charity with the contribution notice that the entity should not provide any tangible benefit to the contributor, as per the Commission's advisory opinion.

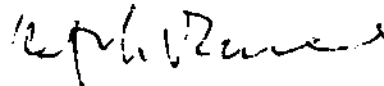
Freeport suggests the following additional language to the draft advisory opinion to bring it in line with this proposed change:

Freeport's plan meets this requirement because each contributor to the PAC will be given written notice that he or she cannot receive any tangible benefit from the charitable entity in exchange for the matching contribution. Also, at the time of making the matching contribution, Freeport will advise the charitable entity in writing that the contributor cannot receive any tangible benefit in exchange for the contribution, per the Commission's advisory opinion.

Freeport suggests that this language, if the Commission chooses to adopt it, should be included at the end of line 1 on page 4 of the draft advisory opinion.

If you need additional information regarding these comments or Freeport's advisory opinion request, do not hesitate to contact me directly. I can be reached at 504-582-8194.

Sincerely yours,



/ R. Patrick Vance

cc: Office of General Counsel,
via telefax (202-219-3923)
and U. S. Mail